



PUBLIC NOTICE

**Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554**

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DA- 07-3489

**Before the
Federal Communications Commission
Washington, D.C. 20554**

PUBLIC NOTICE

Released: August 01, 2007

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Central Vermont Communications, Inc – Request for refund of application fees. **Granted** (June 28, 2007) [See 47 C.F.R. §§1.1108 and 1.1113(a)]

DFW Radio Licensee, LLC - Request for waiver of FY 2006 regulatory fee. **Granted** (June 28, 2007) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd, 12759, 12761-62 (1995)]

World Television of Washington, LLC – Request for waiver of FY 2006 regulatory fee. **Granted** (June 07, 2007) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12763 (1995)]

**NOTE: ANY QUESTIONS REGARDING
THIS REPORT SHOULD BE DIRECTED
TO THE REVENUE AND RECEIVABLES
OPERATIONS GROUP AT (202) 418-1995.**

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 28 2007

OFFICE OF
MANAGING DIRECTOR

Kenneth E. Hardman, Esq.
2154 Wisconsin Ave., N.W., Suite 250
Washington, D.C. 20007-2280

Re: Central Vermont Communications, Inc.
Request for Refund of Application Filing Fees
Fee Control No. 070313894279005

Dear Mr. Hardman:

This letter responds to your request dated April 11, 2007, (*Request*) submitted on behalf of Central Vermont Communications, Inc. (CVC), for a refund of the fees associated with seven Form 601 applications filed in the Universal Licensing System (ULS) on March 6, 2007 (*March 6 Applications*), for new sites above the Line A in the state of New York.¹ Our records reflect that you paid \$365.00 for each of the applications, for a total fee payment of \$2,555.00. Our records also reflect that on April 6, 2007, you re-filed the applications and paid a fee of \$60.00 each for a total of \$420.00. For the reasons stated herein, we grant a refund of \$420.00.

You recite that CVC filed a \$365.00 application fee for each of "seven Form 601 applications erroneously filed in the Universal Licensing System (ULS) on March 6, 2007, for new sites above Line A in the state of New York[.]"² You state that "[a]ll of the applications were filed for frequencies on which [the] applicant holds the geographic license issued in Auction No. 40."³ You state that although "new site applications . . . are [typically] not required . . . for channels subject to geographic licenses[,] . . . they were required in these instances because the sites involved were above Line A and require coordination with Canada."⁴ You state that the applications "erroneously specified that they were filed in ULS in the Part 22 Paging and Radiotelephone service (code "CD") rather than in the auctioned Part 22 VHF/UHF Paging service (code "CP")."⁵ You say that

¹ The Commission uses "Line A" as a coordination point with Canadian authorities in the assignment of paging channels. Line A, which approximately parallels the United States-Canadian border, is defined in section 2.1 of the Commission's rules, 47 C.F.R. §2.1.

² *Request* at 1.

³ *Id.*

⁴ *Id.* (citing 47 C.F.R. §2.1).

⁵ *Id.*

“because the applications were for sites above Line A, ULS . . . accepted them for filing and required an application filing fee of \$365 per application[.]”⁶ You state that “[w]hen the applications were reviewed by the Commission’s processing staff, the [coding] error . . . was discovered, and applicant was instructed to withdraw the applications and re-file them with the service code ‘CP.’”⁷ You state that by that time, CVC’s “fee check . . . had already been deposit[ed] by Mellon Bank and paid by applicant’s bank.”⁸ You say that pursuant to the Commission’s instructions, CVC withdrew the original applications and subsequently re-filed new Form 601 applications under code “CP,” along with a \$60.00 filing fee for each of the seven applications, for a total filing fee of \$420.00.⁹ Our records reflect that CVC filed the new Form 601 applications on April 6, 2007 (*April 6 Applications*). In a subsequent communication, you submit copies of the ULS-generated statements that the system had received the *April 6 Applications* and that the amount due for each of the applications was \$60.00.¹⁰ You assert that a refund of the \$365.00 that CVC paid for each of the *March 6 Applications*, for a total refund of \$2,555.00, is consistent with previous letter rulings issued by the Office of Managing Director (OMD).¹¹

Our records reflect that the Wireless Telecommunications Bureau (Bureau) discovered a coding error in the *March 6 Applications* and advised CVC to withdraw the applications and re-file them using the correct filing code. On April 6, 2007, one month after filing the initial applications, CVC re-filed the applications using the correct filing code. CVC, however, submitted a filing fee of \$60.00 for each of the *April 6 Applications*, which is not the correct fee for the applications at issue here. Section 1.1102(16)(a), 47 C.F.R. §1.1102(16)(a), provides that a major modification of a Part 22 paging service is subject to a \$365.00 application fee. Section 1.929(a)(5) of the Commission’s rules, 47 C.F.R. §1.929(a)(5), classifies an application in the wireless radio services (including a Part 22 paging service) “requiring frequency coordination pursuant to the Commission’s rules or

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ See Email from Ken Hardman to Joanne Wall, Attachments 1 - 7 (May, 10, 2007).

¹¹ *Request* at 1 (citing Letter from Mark A. Reger, Chief Financial Officer (CFO), OMD, FCC, to Christine M. Gill, Esq. (Nov. 9, 2005) (*November 9 Decision*) and Letter from Mark A. Reger, CFO, OMD, FCC, to Simon J. Lincoln, Esq. (Oct. 25, 2005) (*October 25 Decision*). In an email supplementing the *Request*, you claim that a refund of the original filing fees would also be consistent with OMD’s decision in Letter from Mark A. Reger, CFO, OMD, FCC, to Francis E. Fletcher, Jr. (Feb. 15, 2007) (*February 15 Decision*). See Email from Ken Hardman to Anthony Dale (April 24, 2007).

international treaty or agreement” as a major modification.¹² The *April 6 Applications* involve Part 22 paging services that require frequency coordination with Canadian authorities and therefore are each subject to a \$365.00 filing fee under section 1.1102(16)(a) of the rules. Although CVC received a ULS-generated confirmation for each of the applications erroneously stating that the amount due for each of the applications was \$60.00 (as opposed to \$365.00), the error in the ULS system does not alter the fact that the Commission’s rules, as well as the instructions to FCC Form 601 and the Bureau’s Fee Filing Guide, clearly provide that the fee for each of the *April 6 Applications* is \$365.00.

Because CVC re-filed corrected applications along with a filing fee on April 6, 2007, shortly after the Bureau advised the corporation to withdraw the defective *March 6 Applications* (for which CVC had submitted the correct filing fees for purposes of the re-filed applications), we find that a refund is appropriate. Specifically, because CVC submitted a \$365.00 fee for each of the seven *March 6 Applications* and then submitted a \$60.00 fee for each of the *April 6 Applications*, we find that a refund of the \$60.00 fee submitted with each of the re-filed applications, for a total refund of \$420.00, is appropriate. Your reliance upon the OMD letter rulings (*see supra* footnote 11) does not support a refund of the \$365.00 fee associated with the seven originally-filed applications. Two of the OMD letter rulings upon which you rely involve applicants who submitted the correct fee amount twice: once with their original applications and again when they re-filed their applications.¹³ In those cases, a refund of the original fee submission was appropriate because the applicants paid the correct fee twice for each application. Here, in contrast, CVC paid the correct fee for each of the original applications, but paid an insufficient fee for the re-filed applications. The third letter involves a licensee who submitted requests for waiver of the Commission’s electronic filing requirements along with the associated filing fees, even though the waiver requests were not required for the services in question.¹⁴ A refund of the submitted fees was appropriate under the unusual circumstances of that case because it was plausible that the licensee reasonably believed that a waiver request was required under the rules. In the

¹² The instructions to FCC Form 601 and the Wireless Telecommunications Bureau’s Fee Filing Guide reiterate the provisions of sections 1.1102(16)(a) and 1.929(a)(5) of the rules. *See* FCC 601, Main Form, Information and Instructions, FCC Application for Wireless Telecommunications Bureau Radio Service Authorization (Feb. 2007) page 10 (stating that under section 1.929 of the Commission’s rules, applications are classified as major if they require “frequency coordination pursuant to the Commission’s Rules or international treaty or agreement” and involve “stations in all Wireless Radio Services, whether licensed geographically or on a site-specific basis”); *see also* FCC, Wireless Telecommunications Bureau Fee Filing Guide, Effective October 17, 2006, Part B, page 6, Part 22 Paging and Radiotelephone Service (stating that applications for major modifications for these services are subject to a \$365.00 filing fee).

¹³ *See October 25 Decision and February 15 Decision.*

¹⁴ *See November 9 Decision.*

instant case, however, a refund of the \$365.00 fee that CVC submitted in association with each of the originally-filed applications is not warranted because CVC is undoubtedly required under the rules to file the applications along with those fees. We therefore find that CVC is only entitled to a refund of the fee submitted with each of the *April 6 Applications*.

Accordingly, we find that a refund of the filing fees submitted in connection with the *April 6 Applications* is appropriate.¹⁵ We therefore grant a refund of the \$60.00 filing fees associated with the seven applications filed on April 6, 2007, for a total refund of \$420.00. A check, made payable to the maker of the original check, and drawn in the amount of \$420.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

¹⁵ See 47 C.F.R. §§1.1108 and 1.1113(a).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 28 2007

OFFICE OF
MANAGING DIRECTOR

Dennis J. Kelly, Esq.
Post Office Box 41177
Washington, D.C. 20018

Re: Request for Waiver of
FY 2006 Regulatory Fees
Fee Control No. RROG-06-00007879

Dear Mr. Kelly:

This responds to your letter filed September 19, 2006, on behalf of DFW Radio Licensee, LLC, Debtor-in-Possession (DFW Radio), requesting waiver of the regulatory fees for Fiscal Year (FY) 2006 as licensee of KFCD(AM), Farmersville, Texas, and permittee of KHSE(AM), Wylie, Texas.¹ You request waiver on the grounds that DFW Radio is seeking reorganization under Chapter 11 of the bankruptcy code.² As indicated below, we grant your request for waiver of DFW Radio's FY 2006 regulatory fees.

In support of your request, you attach a copy of DFW Radio's bankruptcy petition from the U.S. Bankruptcy Court, Northern District of Texas (Dallas), establishing that the Chapter 11 Bankruptcy Petition was filed on May 26, 2005.³ You note that your request is consistent with Commission policy regarding regulatory fee waivers.⁴ Further, at the request of Commission staff, you have provided a copy of a December 28, 2006 letter decision from Peter H. Doyle, Chief, Audio Division, Media Bureau, that granted an assignment application from DFW Radio to Bernard Dallas LLC.⁵ You assert that DFW Radio's bankruptcy proceedings were still ongoing at that time, which was subsequent to the September 19, 2006 regulatory fee deadline.⁶

¹ Waiver Request from Dennis J. Kelly, Esq. for DFW Radio License, D.I.P., filed Sept. 19, 2006 (Request) at 1-2.

² *Id.* at 2.

³ Attachment to Request, U.S. Bankruptcy Court, Northern District of Texas (Dallas), Bankruptcy Petition #: 05-35892-bjh11, DFW Radio License LLC, Debtor In Possession, filed May 26, 2005.

⁴ Request at 2.

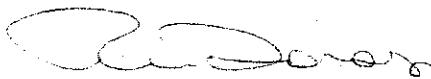
⁵ Letter to David A. Schum and Daniel B. Zwirn, Applicants, from Peter H. Doyle, Chief, Audio Division, Media Bureau, DA 06-2607, Dec. 28, 2006 (granting assignment application from DFW Radio to Bernard Dallas LLC).

⁶ See *Public Notice, Payment Methods and Procedures for Fiscal Year 2006 Regulatory Fees*, 21 FCC Rcd 9514 (2006) (stating that licensees and regulatees must make annual regulatory fees payments by 11:59 PM September 19, 2006); see also *Public Notice, FY 2006 Regulatory Fees Due No Later Than September 19, 2006*, released July 31, 2006.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship, and evidence of bankruptcy or receivership at the time the fees are due is sufficient to establish financial hardship. *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd, 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). Based on the documents that you have submitted concerning DFW Radio's bankruptcy status, we will grant DFW Radio a waiver of the regulatory fees for KFCD(AM) and KHSE(AM) for FY 2006.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



 Mark Stephens
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

June 7, 2007

Lawrence Rogow
Chairman
World Television of Washington, LLC
4164 Meridian, Suite 102
Bellingham, WA 98226

Re: World Television of Washington, LLC
FY 2006 Regulatory Fees
KBCB(TV), Bellingham, Washington
Fee Control No. 0609139365893713

Dear Mr. Rogow:

This is in response to your letter dated November 29, 2006 (Letter) on behalf of World Television of Washington, LLC (WTW), licensee of KBCB(TV), Bellingham, Washington, for a partial refund of the fiscal year (FY) 2006 regulatory fee. You request a refund reflecting the difference between the regulatory fee that Station KBCB(TV) paid for FY 2006 (\$19,100) and the amount charged to UHF television stations in markets 51 through 100 under section 1.1153 of the Commission's rules (\$6,500), *i.e.*, \$12,600.¹ Our records reflect that you paid the \$19,100 regulatory fee. For the reasons stated herein, we grant your request.

KBCB(TV) is in the Seattle-Tacoma Designated Market Area (DMA), which is the 14th largest market.² You recite that KBCB(TV)'s "signal cannot be received over-the-air in either Seattle or Tacoma" and that the station's "Grade B service area can only be received by 817,227 people within the Seattle-Tacoma DMA[, which means that the] . . . signal reaches less than 20% of the Seattle-Tacoma DMA populace."³ You assert that because "there are 2.62 persons per television household within the Seattle-Tacoma DMA and 311,919 television households within the Grade B service area of KBCB, the

¹ Letter at 2.

² See *Television & Cable Factbook*, No. 75, A-1 (2007) (*Factbook*). We note that the "Nielsen DMA, TV Household information and [television market] rank[ings in the 2007 edition of the *Factbook*] are based on the 2006 Nielsen U.S. Television Household Estimates." *Id.*

³ Letter at 1-2. You attach a map that depicts KBCB(TV)'s Grade B coverage area with a population underlay. See Letter, Attachment A.

[station] is effectively serving a market equivalent to DMA market size number 94."⁴ You also state that KBCB(TV) is not a network affiliate.⁵

In deciding whether to reduce regulatory fees for a television station below the fees assessed for stations in the relevant DMA, the Commission has considered factors such as whether the station is located outside the principal city's metropolitan area, whether it provides a Grade B signal to a substantial portion of the market's metropolitan area, and whether it lacks network affiliation.⁶ Stations that meet these criteria and request fee reductions will be assessed regulatory fees based on the number of households they serve; stations that serve fewer television households than are in the top 100th market will be assessed the regulatory fee for remaining market stations.⁷

For purposes of the FY 2000 regulatory fee, the Office of Managing Director (OMD) found that because KBCB(TV) is not a network affiliate, is located outside the Seattle-Tacoma, Washington metropolitan area, and its Grade B signal (encompassing 79,600 television households) does not serve a substantial portion of the Seattle-Tacoma, Washington metropolitan area (*citing the 2000 Television & Cable Factbook*), KBCB(TV) should be treated as a remaining market station.⁸ In the following five years, OMD found that circumstances had not changed since the *FY 2000 Letter Decision* so as to affect KBCB(TV)'s qualification for a regulatory fee reduction, and therefore granted KBCB(TV) a partial refund for those years as well.⁹

⁴ Letter at 2.

⁵ *Id.*

⁶ *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995).

⁷ *Id.*

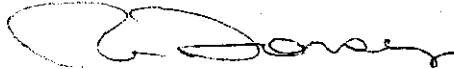
⁸ See Letter from Mark Reger, Chief Financial Officer, (CFO), OMD, FCC, to Elizabeth E. Goldin, Wiley, Rein & Fielding (Feb. 8, 2001) (noting that WTW is under a continuing obligation to report to the Commission any circumstances that could affect KBCB(TV)'s qualification for regulatory fee reduction) (*FY 2000 Letter Decision*).

⁹ See Letter from Mark A. Reger, CFO, OMD, FCC, to Eve J. Klindera, Esq., Wiley, Rein & Fielding (Nov. 27, 2001) (refund of FY 2001 regulatory fee); Letter from Mark A. Reger, CFO, OMD, FCC, to Paul Koplin, President, WTW (Jan. 9, 2004) (refund of FY 2002 regulatory fee); Letter from Mark A. Reger, CFO, OMD, FCC, to Brooke Temple, Vice President, WTW (Jan. 9, 2004) (refund of FY 2003 regulatory fee); Letter from Mark Stephens, Acting CFO, OMD, FCC to Lawrence Rogow, Chairman, WTW (June 15, 2006) (refund of FY 2004 regulatory fee); Letter from Mark A. Reger, CFO, OMD, FCC to Lawrence Rogow, Chairman, WTW (March 2, 2006) (refund of FY 2005 regulatory fee).

With respect to the FY 2006 regulatory fee, we find that because KBCB(TV) is located outside the principal city's metropolitan area in its assigned DMA, does not provide a Grade B signal to a substantial portion of its market's metropolitan area, and is not a network affiliate, the station has met the Commission's standards, as set forth above, for reducing the station's regulatory fee. In the absence of Nielsen data reflecting the number of television households covered by KBCB(TV), our review of the data you have submitted reflects that the station's Grade B contour covers 311,919 television households and thus serves households comparable to those served by stations in the 95th DMA.¹⁰ Under the circumstances, we find that it is appropriate that KBCB(TV) be treated as comparable to a UHF commercial television station in markets 51 through 100 and be subject to a \$6,500.00 regulatory fee for FY 2006. We therefore grant station KBCB(TV) a refund of the FY 2006 regulatory fee in the amount of \$12,600.00.

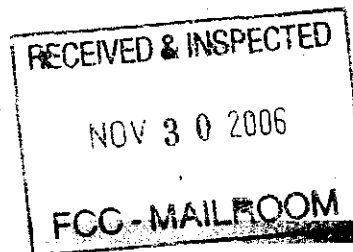
A check made payable to the maker of the original check and drawn in the amount of \$12,600.00 will be provided at the earliest practicable time. If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

¹⁰ See Factbook at A-4.



4164 Meridian
Suite 102
Bellingham, WA
98226 USA

T 360.647.8842
F 360.647.9204

November 29, 2006

VIA OVERNIGHT DELIVERY

Office of the Managing Director
Attn: Regulatory Fee Waiver/Reduction Request
Federal Communications Commission
445 12th Street, S.W.
Room 1-A625
Washington, D.C. 20554

8196
0609139365893713

~~0609139365893713~~

Re: Request for Partial Refund of Regulatory Fees for Fiscal Year 2006
World Television of Washington, LLC
KBCB, Channel 24, Bellingham, Washington
Facility Id. No. 53586

Dear Office of the Managing Director:

As it has over the past few years, World Television of Washington, LLC ("WTW"), licensee of KBCB, Channel 24 at Bellingham, Washington, hereby requests a reduction in its regulatory fees pursuant to "FY2000 Mass Media Regulatory Fees," Public Notice 20318, August 2, 2000.

The Seattle-Tacoma Designated Market Area ("DMA") is a Top 25 DMA and stations in this market are required to pay \$19,100.00 as their annual regulatory fee in the 2006 Fiscal Year. The Seattle-Tacoma DMA includes 4,432,000 persons. (BIA's Television Year Book 2005).

In the implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, the Commission concluded that stations that "lack network affiliations, and are located outside of the principle city's metropolitan area and do not provide a grade B signal to a substantial portion of the market's metropolitan areas....will be assessed a fee based on the number of television households served, and will be charged the same as stations serving markets within the same number of television households." 10 FCC Rcd 12759 (1995), paras. 21-22.

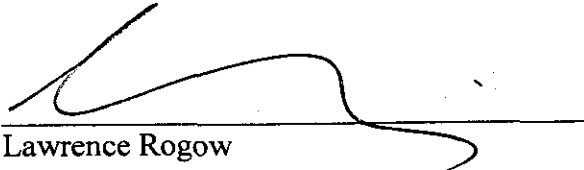
KBCB is licensed to Bellingham, Washington, which is in the far northern end of the Seattle-Tacoma DMA. Due to this location, the KBCB signal cannot be received over-the-air in either Seattle or Tacoma. In fact, as illustrated in the attached map of KBCB's Grade B contour (See Attachment A), KBCB's Grade B service area can only be

received by 817,227 people within the Seattle-Tacoma DMA. In other words, the KBCB over-the-air signal reaches less than 20% of the Seattle-Tacoma DMA populace. Additionally, KBCB is not a network affiliate. KBCB is predominately a foreign language broadcaster.

Accordingly, WTW believes that circumstances dictate that the KBCB regulatory fees be adjusted in accordance with the Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, 10 FCC Rcd 12759 (1995), paras. 21-22. As there are 2.62 persons per television household within the Seattle-Tacoma DMA and 311,919 television households within the Grade B service area of KBCB, the Licensee is effectively serving a market equivalent to DMA market size number 94. Stations in markets 51-100 pay a regulatory fee of \$6,500, which is \$12,600 less than what WTW paid in 2006 as indicated in Attachment B.

WTW therefore requests a refund of \$12,600.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence Rogow', is written over a horizontal line.

Lawrence Rogow
Chairman
World Television of Washington, LLC

2 Attachments.